

Panaji, 8th July, 1982 (Asadha 17, 1904)

SERIES II No. 15

# OFFICIAL GAZETTE



## GOVERNMENT OF GOA, DAMAN AND DIU

### GOVERNMENT OF GOA, DAMAN AND DIU

#### Department of Personnel and Administrative Reforms

Secretariat Administration and Coordination Division

Order

No. 17/10/81-SA&amp;C

Read: Government Order No. 17/10/81-SA&amp;C, dated 26-12-1981.

Shri Som Prakash, Assistant Engineer, P.W.D. on deputation to the post of Liaison Officer-cum-Assistant Engineer in the Office of Special Commissioner, New Delhi, is hereby transferred with immediate effect and his services are placed at the disposal of his parent Department i.e. P.W.D. for being posted as Assistant Surveyor of Works in Circle Office III (Roads and Bridges) P.W.D., Altinho, Panaji.

2. He shall hand over charge to the Special Commissioner.

By order and in the name of the Administrator of Goa, Daman and Diu.

Jose Philip, Joint Secretary.

Panaji, 3rd July, 1982.

### Home Department (General)

Notification

No. HD/25-65/73-HD(G)/Vol. II

Read: Government Notification No. HD/25-65/78-HD(G) Vol. II dated 25-9-1981 published in Official Gazette Series II No. 26 dated 26-9-1981.

In partial modification of Government Notification cited above, the Lt. Governor of Goa, Daman and Diu in exercise of the powers conferred by Section 44 of the Motor Vehicles Act, 1939 (Central Act 4 of 1939) read with Rule 4.1 of the Goa, Daman and Diu Motor Vehicles Rules, 1965, is pleased to appoint Shri Herculano Dourado, M.L.A., Dabolim and Shri Gurudas Tari, M.L.A., Sanguem as Non-official Members of the State Transport Authority, Goa in place of Shri Vasu Paik Gaonkar, M.L.A., Canacona and Shri Michael A. C. Fernandes, M.L.A., St. Cruz with immediate effect and until further orders.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

S. M. Naik, Under Secretary (Home).

Panaji, 26th June, 1982.

### Works, Education and Tourism Department

Order

No. 7/12-1/82-WET

On the recommendation of the Departmental Promotion Committee Shri D. G. Khandeparkar, Senior Architectural Assistant in the Office of the Senior Architect of P.N.D. is hereby promoted on officiating basis to the post of Assistant Architect in the scale of Rs. 650-39-740-35-810-EB-35-880-40-1000-EB-40-1200 plus all other admissible allowances sanctioned from time to time and with immediate effect.

By order and in the name of the Administrator of Goa, Daman and Diu.

A. V. Pimenta, Under Secretary to the Government of Goa, Daman and Diu.

Panaji, 19th June, 1982.

### Local Administration and Welfare Department

Notification

No. 4-46-76-UDD

In exercise of the powers vested under Section 20 of the Goa, Daman and Diu, Town and Country Planning Act, 1974, the Government of Goa, Daman and Diu is hereby pleased to constitute the following three Planning and Development Authorities:

- Panaji Planning and Development Authority for Panaji Planning area.*
  - Shri Govind Panvelkar — Chairman.
  - Sarpanch of Village Panchayat St. Cruz — Member.
  - Sarpanch of Village Panchayat Corlim — Member.
  - President of Panaji Municipal Council — Member.
  - Shri Ramesh Kamat — Member.
  - Shri Bruno D'Souza — Member.
  - Smt. Ligia Barretto — Member.
  - Shri G. A. Pandurangadu — Member Secretary.
- Mormugao Planning and Development Authority.*
  - Shri Fenelon Rebello — Chairman.
  - Sarpanch Village Panchayat Velsao — Member.
  - Sarpanch Village Panchayat Cortalim — Member.
  - President Mormugao Municipal Council — Member.
  - Shri Mahadev Kamat — Member.
  - Shri Garcia Dias — Member.
  - Smt. V. G. Jadhan — Member.
  - Shri D. D. Suktankar — Member Secretary.
- Southern Planning and Development Authority.*
  - Shri J. Da Silva — Chairman.
  - Sarpanch of Village Panchayat of Sao Jose de Areal — Member.

3. Sarpanch of Village Panchayat Davorlim — Member.
4. President of Margao Municipal Council — Member.
5. Mrs. Veena Virginkar — Member.
6. Shri Sarto Almeida — Member.
7. Shri Bhagwant Naik — Member.
8. Shri S. V. Sanganal — Member Secretary.

The Chairman and the other Members of the Planning and Development Authority will be entitled to honoraria and other allowances as admissible to them under the Goa, Daman and

Diu Town and Country Planning (Planning and Development Authorities) Rules, 1977.

The term of Office of each of the aforesaid Planning and Development Authority will be one year or till further Government orders whichever is earlier.

By order and in the name of the Administrator of Goa, Daman and Diu.

*Alexandre Pereira*, Under Secretary (Revenue).

Panaji, 1st July, 1982.

## Revenue Department

### Notification

No. 22/147/81-RD

Whereas it appears to the Appropriate Government (hereinafter referred to as "the Government") that the land specified in the Schedule hereto (hereinafter referred to as the "said land") is likely to be needed for public purpose viz. For construction of road along Colva sea-shore at Colva.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the "said Act") that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Land Acquisition Officer, P.W.D. (CELL), Panaji, to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section (4) of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Goa, Panaji.
2. The Land Acquisition Officer, P.W.D. (CELL), Panaji.
3. The Executive Engineer, Works Division VIII, P.W.D., Fatorda, Margao.
4. The Director of Land Survey, Panaji.

6. A rough plan of the said land is available for inspection in the office of the Land Acquisition Officer, P.W.D. (CELL), Panaji, for a period of 30 days from the date of publication of this Notification in the Official Gazette.

### SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village/Ward	Plot No.	Survey No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Salcete	Colva		36/1(Part)	Mrs. Belinda Ermelinda Fernandes.	2000.00
<b>Boundaries:</b>						
North: Survey No. 37, Sub-Div. No. 2.						
South: Survey No. 37, Sub-Div. No. 9.						
East: Survey No. 36, Sub-Div. No. 1.						
West: Survey No. 37, Sub-Div. No. 11.						
<b>Total</b>						<b>2000.00</b>

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

*S. Regunathan*, Secretary (Revenue).

Panaji, 26th June, 1982.

### Notification

No. RD/END/263/79

Read: Government Notification No. RD/END/263/79 dated 1-12-1981, Addendum No. RD/END/263/79 dated 12-2-1982 and subsequent Notification No. RD/END/263/79 dated 27-2-1982.

Government is pleased to extend the term of the Committee constituted under the Notification of even number dated 1-12-1981 upto 17-12-1982.

The Committee should submit the report by the said date.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

*L. J. Menezes Pais*, Under Secretary (Revenue-I).

Panaji, 26th June, 1982.

## Corrigendum

No. 22/3/82-RD

Read: — Notification No. 22/3/82-RD dated 24-2-82 published in the Official Gazette No. 49, Series II dated 4-3-82 pages 624-625.

The Schedule of the above Notification should be substituted as detailed below, instead of Schedule appearing therein;

Sr. No.	Taluka	Village/Ward	Sub-Div. No.	Survey No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
	Salcete	Velim	—	57 Part	1. Shri Cruisito Caeiro. 2. Shri Nelson Caeiro. 3. Shri Francis Caeiro.	1550.00
	— do —	— do —	3 Part	56	— do —	313.00
Boundaries: North: Survey No. 56/57. South: Survey No. 56/57. East: Survey No. 56. West: Survey No. 56.						
Total .....						1863.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

S. Regunathan, Secretary (Revenue).

Panaji, 10th June, 1982.

## Public Health Department

Order

No. 5/20/82-PHD

On the recommendation of the Local Selection Committee, Shri M. B. Kaliwal is hereby appointed on ad-hoc basis to the post of Assistant Malaria Officer (Entomologist, Non-Medical) under the Directorate of Health Services, Panaji with immediate effect, against the post created vide Government Order No. PHD/46/7-CSS/NMEP/5060, dated 15-2-78, on the terms and conditions contained in Government Memorandum of even number dated 29-5-82. Shri M. B. Kaliwal should report at the National Malaria Eradication Programme, Panaji in the Directorate of Health Services, immediately.

The above appointment is however subject to the verification of his character and antecedents.

The above appointment will not bestow on the person a claim for regular appointment and the services rendered on ad-hoc basis in the grade would not count for the purpose of seniority in that grade or eligibility for promotion to the next higher grade.

The above officer has been medically examined and found fit by the Medical Board, Panaji.

By order and in the name of the Administrator of Goa, Daman and Diu.

M. S. Sail, Under Secretary (Health).

Panaji, 28th June, 1982.

Order

No. 5/11/82-PHD

The resignation tendered by Dr. Aurobindo Fernandes, Medical Officer under the Directorate of Health Services, is accepted with effect from the date of his relief.

By order and in the name of the Administrator of Goa, Daman and Diu.

M. S. Sail, Under Secretary (Health).

Panaji, 29th June, 1982.

Order

No. 5/41/82-PHD

On the recommendations of the Local Selection Committee, Dr. (Mrs.) A. A. Nagarsenkar, is hereby appointed on ad-hoc basis to the post of Lecturer in Anatomy in the pay-scale of Rs. 1100-50-1500-EB-60-1800 in the Goa Medical College with effect from the date of take over, until further orders, on the terms and conditions mentioned in the Memorandum of even number dated 17th June, 1982.

The above appointment will not bestow on the person a claim for regular appointment and the service rendered on ad-hoc basis in the grade would not count for the purpose of seniority in that grade and for eligibility for promotion to the next higher grade.

Dr. Nagarsenkar has already been declared fit by the Medical Board, Panaji.

By order and in the name of the Administrator of Goa, Daman and Diu.

M. S. Sail, Under Secretary (Health).

Panaji, 29th June, 1982.

Corrigendum

No. 5/64/80-PHD

Read: Government Order No. 5/64/80-PHD dated 1st April, 1980.

The date of regular appointment of Dr. Ulhas Gopal Nachinolkar, as Lecturer in Orthopaedic Surgery, Goa Medical College, Panaji, appointed vide above referred Government order shall be read as 21-2-1980 and not with immediate effect as stated therein.

By order and in the name of the Administrator of Goa, Daman and Diu.

M. S. Sail, Under Secretary (Health).

Panaji, 29th June, 1982.

## Industries and Labour Department

## Order

No. 28/30/81-ILD

Whereas the Lieutenant Governor of Goa, Daman and Diu is of the opinion that an industrial dispute exists between employers in relation to the management of M/s. Shree Haresh Saw Mill, Fatorda, Margao and their workmen represented through Goa Shops and Industrial Worker's Union, P.B. No. 99, Margao, Goa in respect of matters specified in the Schedule hereto annexed (hereinafter referred to as the "said dispute");

And whereas the Lieutenant Governor of Goa, Daman and Diu considers expedient to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), the Lieutenant Governor of Goa, Daman and Diu hereby refers the said dispute for adjudication to the Industrial Tribunal, Goa, Daman and Diu, Panaji, constituted under section 7-A of the said Act.

## SCHEDULE

1. Whether the following demands of the workmen of M/s. Shree Haresh Saw Mill, Margao represented by the Goa Shops and Industrial Workers' Union, Margao, to be effective from 1-1-80 is justified?

2. If so, to what relief the workmen are entitled under separate Heads of demand?

## THE DEMANDS

## 1. Classification:—

The employees should be classified in the following categories:—

- (a) Skilled.
- (b) Semi-skilled.
- (c) Unskilled.

## 2. Pay Scale and Fitment:

Each employee according to his category should be fitted in the following pay scale taking into consideration the years of service put in by him.

- i) Skilled — 400-25-575-30-725.
- ii) Semi-skilled — 375-20-475-25-600.
- iii) Unskilled — 250-15-325-20-425.

## 3. Earned Leave:

The workmen should be allowed, on completion of continuous service of 240 days, to annual leave with pay at the rate of 30 days for every completed year of service to be accumulated upto 180 days.

## 4. National Holidays:

All the workmen should be granted paid National Holidays and all the Industrial Holidays as declared by the Government of Goa, Daman and Diu from time to time for observance by the industrial Workmen.

## 5. Medical Expenditure:

All the workmen should be allowed reimbursement of medical expenses to the extent of Rs. 250/- per year.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

S. D. Sadhale, Under Secretary (Industries and Labour).

Panaji, 30th June, 1982.

## Order

No. 28/2/79-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under

the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

S. D. Sadhale, Under Secretary (Industries and Labour).

Panaji, 22nd June, 1982.

IN THE LABOUR COURT GOA, DAMAN AND DIU,  
PANAJI GOA

(Before Dr. Renato de Noronha, Presiding Officer)

Application No. LCC/29/82

- |                      |             |
|----------------------|-------------|
| 1. Miss Zita Pereira | — Applicant |
| V/s.                 |             |
| 1. Shri R. F. Dias   | — Opponent  |
| Proprietor,          |             |
| Hotel Solmar.        |             |

Panaji. Dated: 27-5-1982.

## ORDER

This is an application filed by the above applicant against the above opponent, claiming from the latter the sum of Rs. 230/- plus the amount of compensation to be assessed by the Court.

2. It is applicant's case that she was working as typist/clerk for the opponent at his Hotel Solmar at Miramar, Panaji. She started working on 18-1-1982 and her basic salary was fixed at Rs. 230/- per month. She was also entitled for service charges which were variable, depending on the business the Hotel was making. She was paid the sum of Rs. 141-71 p. for the period of 14 days for January, 1982, inclusive of service charges. Subsequently, she was paid Rs. 298-60 for the month of February, which also included service charges. All of a sudden, her services were terminated by the employer, by letter dated 16-3-1982, which was to be effective from 31-3-1982, on the ground that her services were not satisfactory. She submits that the ground alleged is only a pretext to terminate her services, since, during the tenure of her post, she has worked to the complete satisfaction of the Company. She was entitled to at least one month's notice or one month's salary in lieu thereof; her salary for 7 days and also service charges for 7 days pertaining to the month of March, 1982, have been illegally held by the opponent, though the applicant was on paid leave. The applicant has served a legal notice on the opponent dated 7-4-1981, but the opponent failed to comply with the requirements contained therein. She has detailed the amounts which, according to her, the opponent has to pay.

3. Notice was served on the opponent but the latter remained absent and the case was fixed for ex-parte evidence for today. When the court took up the case, neither the applicant nor the opponent were present and I was informed that the matter has been settled between the parties and, therefore, the applicant is not interested in proceeding with this application.

4. At any rate, since the applicant is not present before this court and no evidence has been led by the applicant to prove her claim, I dismiss this application for default, with no order as to Costs.

Dr. Renato de Noronha

Presiding Officer,  
Labour Court.

## Order

No. 28/2/79-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

S. D. Sadhale, Under Secretary (Industries and Labour).

Panaji, 22nd June, 1982.

**IN THE LABOUR COURT GOA, DAMAN AND DIU,  
PANAJI GOA**

**(Before Dr. Renato de Noronha, Presiding Officer)**

Application No. LCC/24/79

1. Shri Manohar Kumar — Applicant  
V/s.  
1. St. Joseph Carpentry Workshop — Opponent.  
Applicant represented by Shri Dionisio Fernandes, Union Leader.  
Opponent represented by Adv. R. Lotlikar.

Panaji. Dated: — 7-6-1982.

**AWARD**

This is an application filed by the above applicant against the above opponent claiming from the latter the sum of Rs. 1,002-60, as per the details shown in the annexure to the application.

2. It is applicant's case that he was working in the carpentry of the opponent for one year; he, alongwith 7 others, was served with retrenchment notice dated 1-7-1978, but the actual retrenchment was effected from 17-2-1979; he was not paid retrenchment compensation under Section 25F of the I.D.A. 1947; further, the last salary received by the applicant was Rs. 108/- when the opponent was bound to pay him Rs. 234/- per month from 1-2-1979, as per the Minimum Wages Act, which is applicable to the opponent. He has claimed retrenchment compensation, Gratuity, February and March, 1979 wages and bonus, as per the details shown in the annexure.

3. The opponent, in his reply, has raised a preliminary objection regarding lack of jurisdiction of this court to entertain this application and, on merits, has contended that he wanted to retrench the applicant and few others but could not do so due to financial difficulties; it was then agreed and the applicant and others were informed well in advance that their services would stand terminated from 17-2-1979 and that he should collect all his dues on that date. The applicant, however, collected his dues amounting to Rs. 358/- in full and final settlement of his account on or about 3-3-1979 against a receipt issued by him and so the applicant is now estopped from claiming any other amount. The opponent has denied the other claims of the applicant.

4. The following issues were framed by my Learned Predecessor, Dr. Coelho:

- "1. Does the Opponent prove that this Court has no jurisdiction to entertain this Application?
2. Does the Opponent prove that the Applicant was informed well in advance that his services should stand terminated from 17-2-79 and that he should collect all his dues by that date?
3. Does the Opponent prove that they are not liable to pay to the Applicant Gratuity, Bonus, etc.?
4. Does the Applicant prove that he is entitled to receive the amount as claimed in the Annexure attached to his Application?"

5. On the date fixed for evidence, applicant's representative requested the court that his evidence may be declared closed, as he cannot trace the applicant. Opponent's representative, on his side, also did not want to lead any evidence.

6. Considering first the issue to jurisdiction, raised by the opponent:

Since the opponent did not try to show how this Court lacks jurisdiction to entertain the application, this issue has to be decided against the opponent.

7. Regarding other issues, it was for the applicant to lead evidence in support of his case, but he failed to do so and, hence, this application is liable to be dismissed. Consequently, the following order is passed:

**ORDER**

This application is dismissed No Order as to Costs.

*Dr. Renato de Noronha*  
Presiding Officer,  
Labour Court.

Order

No. 28/2/79-ILD

The following Award given by the Industrial Tribunal, Goa, Daman and Diu is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order and in the name of the Administrator of Goa, Daman and Diu.

*S. D. Sadhale*, Under Secretary (Industries and Labour).

Panaji, 22nd June, 1982.

**IN THE INDUSTRIAL TRIBUNAL GOA, DAMAN  
AND DIU, PANAJI-GOA**

**(Before Dr. Renato de Noronha, Presiding Officer)**

Complainant No. IT/16/81

1. Shri Putu R. Shirodkar — Complainant  
V/s.  
1. Shri Vilas Sardessai — Opponent  
Complainant represented by Adv. A. Nigalye.  
Opponent represented by Shri P.K. Lele, Labour Advisor.

Panaji. Dated: 28-5-1982.

**AWARD**

This is a complaint filed by the above complainant against the above opponent under Section 33A of the I.D.A., 1947, hereinafter briefly called the Act.

2. It is his case that, while reference No. IT/24/77 was pending adjudication, the opponent, by letter No. NPP/60001/80, dated 2-5-1980, suspended his services on the ground of some major misconduct pending inquiry and, later, by letter No. NPP/60641/80, dated 16-5-1980, the opponent charge-sheeted him and held an inquiry which was conducted by Shri G. M. Nagarshekar. The Inquiry Officer reportedly submitted his findings holding the opponent guilty of charges but no copy of the findings was given to the complainant and by letter No. NPP/6362/80, dated 4-7-1980, his services were terminated with effect from 8-7-1980. In this complaint, the complainant challenges his termination of services and also alleges that the opponent is guilty of contravention of Section 33 of the Act, as reference No. IT/24/77 is pending adjudication before this Tribunal in which the complainant is directly concerned.

3. The Opponent employer, in its written statement, has raised a preliminary objection regarding the complainant not being "concerned workman" in reference No. IT/24/77, which is pending adjudication and, on merits, has alleged that the complainant was engaged as a peon in the Head Office from January, 1969 and continued the work in that capacity till 6-6-1980, date on which he was discharged from services after an inquiry held against him, in which he fully participated. The Inquiry Officer held him guilty of two out of the three charges framed against him. The employer concurred with the said findings and could have dismissed the complainant having regard to the gravity of the charges and his past record, but gave him a lighter punishment by way of discharge with one month's pay in lieu of notice. The opponent has denied the allegation made by the complainant against the fairness of the inquiry, victimization etc.

4. In his rejoinder, the complainant maintains the stand taken in his complaint.

5. After the parties filed their draft issues, the Tribunal framed the following preliminary issue:

- "1. Does the complainant prove that he is the concerned workman in the reference proceedings No. IT/24/77?"

The complainant filed his list of evidence and also led his evidence on the preliminary issue. The evidence led is of the complainant himself and of one witness. Copy of the Order of reference in case No. IT/24/77 has been produced. The Opponent did not lead any evidence. Both the parties representatives advanced their arguments.

6. The complainant's representative has relied on the ruling of the Supreme Court in the case of New India Motors (P) Limited, New Delhi V/s. K. T. Morris (1960 I LLG 551) to

prove that the complainant is also a concerned workman in the reference No. IT/24/77 pending adjudication, in which the parties are the opponent and another employee of the opponent.

On the other side, the opponent's representative has relied on the following rulings to drive home his point that the complainant cannot be considered as concerned workman in the said pending reference: i) Hindustan Copper Ltd., V/s. Central IT Jaipur (LIC 1979 page 172 Rajasthan High Court); ii) Upper Ganges Valley Electricity Supply Company Ltd., and G. S. Shrivassava, Vol. 1950-1957; and iii) Digwadi Colliery and Ramji Singh (Supreme Court Labour Judgements 1950-1967 page 3350).

7. I have perused the rulings quoted by both the parties' representatives and given due consideration to the arguments advanced by them at the time of hearing and arrived at the conclusion that the complainant is not a concerned workman within the meaning of Section 33 of the Act in the pending reference. And I say so for the following reasons:

The schedule to the Order of reference in the pending case No. IT/24/77 reads as follows:

"Whether the action of the Management of M/s. Navhind Papers & Publications Pvt. Ltd., Panaji, in terminating the services of Shri Vishwas Desai, Proof reader, with effect from 7-3-77 is legal and justified;

If not, to what relief the workman is entitled?"

The copy of the Order of Reference was sent by the Government to the General Secretary, News Papers and Press Employees' Union, Betim, Bardez-Goa, which shows that the workman's dispute was sponsored by the Union.

The complainant's stand finds support in the ruling of the Supreme Court quoted by his representative, wherein a broader construction of Section 33(2) of the Act was adopted. However, this view was later changed by the Supreme Court in Digwadi Colliery's case (Vide 1964 II LLJ 143), wherein the Supreme Court has observed that, even if a broader construction of Section 33(2) is adopted, it is necessary to inquire what is the subject matter of reference.

As for me, I think that it is necessary for the workman, who wants to come within the category of workman concerned in the dispute, to prove that he is interested or has connection with the dispute already pending for determination. I am fortified in this view by the ruling of the Rajasthan High Court in 1979 Labour Lab. IC 175, which, in turn, is based on various other rulings of the High Courts cited therein.

In the Rajasthan High Court Ruling quoted above, Justice Kashlimol, who delivered the judgement, has made the following observation:

"But that does not mean that raising or sponsoring a dispute by the Union will be sine qua non for holding that every member of such Union will be a workman

concerned for any matter whatsoever even if it had no semblance of any connection or interest with the dispute raised by the Union. It could be necessary for the workman to show as to how he is concerned with the earlier dispute raised by the Union and pending before the Labour Court or Tribunal for determination. If the contention raised by the Learned Counsel for the respondent is to be accepted, the result would be that in any and every kind of dispute raised by the Union of any worker, every member of such Union becomes a workman concerned in the dispute and the employer will not be able to take any action without the prior permission or approval of the court or tribunal, concerned. It is necessary for the workman who wants to come within the category of workmen concerned in such dispute to prove that he is interested or has connection with the dispute already pending for determination. If the dispute raised or sponsored by the Union may be of the kind like a demand of bonus or salary which might be affecting the members of the union as a whole, it can be said that every member of the Union is a workman concerned in the dispute but where the dispute (is) raised or sponsored by the Union on behalf of the individual workman relating to an incident concerning the act of that workman individually, it cannot be said that every member of such union will be a workman concerned in the dispute to illustrate, an individual workman is found guilty of committing theft and is dismissed by the employer and such dispute may be sponsored by the Union by raising an industrial dispute and the same may be pending before the court or tribunal for determination, another workman, though being a member of the same union may be found guilty of committing embezzlement or misbehaving with an officer of the employer and which obviously has no connection with the earlier dispute cannot, in my humble opinion, bring such person within the meaning of 'a workman concerned in a dispute' in relation to the dispute raised/sponsored by the Union."

8. And this is precisely our case. The dispute in the pending reference No. IT/24/77, although sponsored by the Union on behalf of the Industrial workman, relates to an incident concerning the act of that workman, individually, and so whatsoever order is passed in the said reference cannot affect the complainant herein and the mere fact that the said reference is sponsored by the Union would not make the other workmen of the Union concerned in the said reference.

9. The complainant herein, not being a workman concerned in the pending reference IT/24/77, this complaint is not maintainable under Section 33A of the Act and, hence, the same is dismissed. In the circumstances of the case, I leave each party to bear its own costs.

Dr. Renato de Noronha  
Presiding Officer,  
Industrial Tribunal.